
THE INTERIM

JULY 2001

HELENA, MONTANA

VOL. XIII NO. 2

LEGISLATIVE FINANCE COMMITTEE

First Meeting of 2001 Interim... The Legislative Finance Committee (LFC) met on June 18th. The meeting was primarily organizational, including election of officers, discussion of the Legislative Fiscal Division's (LFD) interim work plan, and an orientation of the role and authority of the LFC. Rep. Dave Lewis was elected chair, Sen. Greg Jergeson was elected vice chair, and Sen. Bob Keenan was elected secretary. The work plan is an ambitious one requiring at this time more staff than the LFD can provide, but the Committee will further prioritize projects at the October meeting to make sure the work plan is realistic and results in a productive interim.

Subcommittee Appointments... Chairman Lewis made the following appointments at this meeting: Rep. Lewis, Rep. Tropila, Sen. Zook, and Sen. Jergeson will serve on the LFC's management advisory committee. Sen. Keenan will chair the HJR 1 Mental Health Services Study subcommittee. Sen. Stonington, Rep. Jayne, and Rep. Price from the LFC, and Sen. Franklin, Sen. Pease, Rep. Clark, and Sen. Cobb from other committees will serve on the HJR 1 subcommittee.) Appointments were also made to a LFC local government revenue dedication review subcommittee (SB 162) and three appointments were made to the health care costs subcommittee, a subcommittee of the Economic Affairs Committee.

Fiscal Report Overview... LFD staff presented an overview of the "2003 Biennium Legislative Fiscal Report." The report projects a general fund ending fund balance for the 2003 biennium of \$67 million, compared with \$54 million projected at the end of the 2001 session. The increase is due to a large tax settlement with a corporate taxpayer as a result of an audit. With a revised ending fund balance of \$67 million, the state has a 2.5 percent "safety net" reserve. That amount is large for Montana, but is below what experts recommend and is well below the average reserve for other states. It does, however, provide a higher reserve which is

necessary in view of the unsettled economy, the potential for supplementals, and the structural imbalance of the general fund. Ongoing expenditures exceed ongoing revenues by over \$50 million as discussed in Volume 1 of the LFD report. This shortfall would require a 2 percent revenue increase in the next biennium just to meet current expenses.

The "2003 Biennium Legislative Fiscal Report" is available for distribution to legislators. Volume 1, Statewide Perspectives (the overview), has been mailed to each legislator. Volume 2 (Revenue Estimates) and Volumes 3 and 4 (Agency Budgets) are available upon request and may be picked up at the LFD office (Room 110A in the Capitol), or the LFD will mail them to legislators upon request. The report (all four volumes) is also available on the Internet at the LFD website: <http://leg.mt.gov/fiscal/index.htm>.

Other Reports... LFD staff also reported on 2001 legislation recommended by the LFC as well other fiscal bills, and a brief discussion of the upcoming study of public mental health issues. Routine reports were provided on budget amendments, operating plan changes, program transfers, and required reports. In addition, the Department of Transportation discussed the Highway 93 bonding initiative.

Meeting Schedule for the Interim... The Committee adopted a tentative meeting schedule with the 2001 meetings scheduled for October 4-5 and December 6-7. Meetings in 2002 are scheduled for March 4-5, June 6-7, October 3-4 and November 14-15. These dates are subject to change so watch future issues of **THE INTERIM** for meeting dates.

For further information, contact the Legislative Fiscal Division by telephone at 406-444-2986 or e-mail at cschenck@mt.gov.

EDUCATION AND LOCAL GOVERNMENT

Committee to Hold First Meeting... The Education and Local Government Committee will hold its first meeting of the interim on Wednesday, August 1 in Room 102 of the State Capitol. The meeting will begin at 9:30 a.m. At this first meeting, the Committee will elect officers, adopt a work plan for the interim, and appoint subcommittees, if necessary. The Committee will also hear from Alec Hansen, Montana League of Cities and Towns, and Gordon Morris, Montana Association of Counties, on issues of importance to local governments this interim. The Governor's Office will provide an update on the status of the school funding study. There will also be a presentation by the Office of Public Instruction on the "Montana Statewide Education Profile".

New School Funding Lawsuit Filed... A new school funding lawsuit was filed on May 24 by Conrad and Teresa Stroebe of Billings. The basis of the lawsuit is that Montana's system of funding schools is in violation of the tax equity clauses and the uniform taxation doctrine of the Montana Constitution. At the August 1 meeting, the Committee will hear from Chris Tweeten, Chief Counsel for the Attorney General, who will talk about the case.

Information to be Mailed in July... Information concerning the meeting will be mailed to interested persons in mid-July. If you wish to be included on the mailing list, please send your request to Connie Erickson, Legislative Services Division, P.O. Box 201706, Helena 59620-1706. You can also call at (406) 444-3064 or e-mail to <cerickson@mt.gov>.

STATE-TRIBAL RELATIONS COMMITTEE

Committee to Organize in August... The State-Tribal Relations Committee will hold an organizational meeting on Thursday, August 2 in Room 137 of the State Capitol. The Committee will elect officers, adopt a meeting schedule, and select study topics for the interim. The Committee will also discuss visits to one, possibly two reservations over the next year.

The following people are tentatively scheduled to make presentations to the Committee:

- < Gordon Belcourt, MT-WY Tribal Leaders' Council;
- < G. Bruce Meyers, Coordinator of Indian Affairs;
- < Bill Slaughter, Director of the Department of Corrections; and
- < Susan Cottingham, Reserved Water Rights Compact Commission.

Information to be Mailed in July... Information concerning the meeting will be mailed to interested persons in mid-July. If you wish to be included on the mailing list, please send your request to Connie Erickson, Legislative Services Division, P.O. Box 201706, Helena 59620-1706. You can also call at (406) 444-3064 or e-mail to <cerickson@mt.gov>.

ENVIRONMENTAL QUALITY COUNCIL

Council Meets in May... The Environmental Quality Council (EQC) held an interim organizational meeting in Helena on May 24 and 25. After welcoming its 8 new members, the Council elected officers, reviewed its statutory duties and

directives from the 2001 Legislature, and prioritized its work for the next interim. Senator Bea McCarthy was elected as EQC chair and Representative Doug Mood was elected vice chair for the 2001-2002 interim. The Council established the following subcommittees to assist in its work:

Coal Bed Methane and Water Policy

Sen. Cole, chair
Sen. Tester, vice chair
Sen. Ekegren
Sen. McCarthy
Julia Page
Tom Ebzery

Energy

Rep. Lindeen, chair
Sen. McNutt, vice chair
Rep. Paul Clark
Rep. Hedges
Sen. Toole
Rep. Mood
Ellen Porter

Agency Oversight and MEPA Analysis

Rep. Harris, chair
Rep. Barrett
Howard Strause

The Council has broad statutory duties regarding oversight of the development of state energy policies and has established a subcommittee to focus on energy issues currently facing the state. House Joint Resolution No. 27 requests that the EQC provide oversight and review of the state and federal environmental analysis of proposed coal bed methane development in eastern and south central Montana. The joint coal bed methane and water policy subcommittee will be conducting that research as well as fulfilling the several statutory obligations of the Council regarding state water policy issues. The agency oversight and MEPA subcommittee will be analyzing the implementation of programs and policies by executive agencies for which the Council has oversight responsibility, administrative rule review, and the implementation of the Montana Environmental Policy Act including following up on the recommendations of last interim's EQC MEPA study subcommittee. The EQC and staff are currently preparing detailed work plans to assist the subcommittees in their interim work.

The EQC will adopt the final work plans at its next meeting to be held on September 10 and 11 in Billings or Colstrip. This meeting will also include site visits to various energy producing facilities in the area and a field visit to coal bed methane exploration areas.

For More Information... The EQC web site contains information about the EQC and its work, copies of meeting agendas, minutes, and reports (<http://leg.mt.gov/services/lepo/index.htm>). The office may be contacted by calling (406) 444-3742.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Officers Elected....Sen. Don Hargrove (R-Belgrade) and Rep. Larry Jent (D-Bozeman) were elected chair and vice chair, respectively, at the June 15, 2001, initial meeting of the State Administration and Veterans' Affairs Interim Committee (SAIC).

Duties and Responsibilities Reviewed...The SAIC reviewed its duties and responsibilities for the 2001-2002 interim, which include:

- Rule review, program evaluation, program monitoring, and pre-session bill drafting for:
 - < the Department of Administration, including the public employee retirement plans;
 - < the Department of Military Affairs, including the Montana Board of Veterans' Affairs and the Montana Veterans' Affairs Division; and
 - < the Office of the Secretary of State, including the Commissioner of Political Practices.
- Conduct of interim studies assigned by the Legislative Council, including:
 - < the SJR 5 study of veterans' issues; and
 - < the HJR 8 study of voting systems.
- Pre-session screening of public employee retirement plan legislation proposals and adoption of pension plan policy statements.

Executive Branch Overview...Each executive branch agency for which the SAIC has monitoring duties presented a brief overview of the agency's structure, funding, mission, programs, and goals.

Study Plan Priorities Set ...The SAIC approved staff's proposed work plan, which allocated staff resources as follows: 50% to the SJR 5 study, 30% to the HJR 8 study, and 20% to executive branch agency responsibilities.

Subcommittees Appointed...Chairman Hargrove appointed two subcommittees to undertake the assigned studies.

The SJR 5 Subcommittee on Veterans' Affairs consists of the following members:

Sen. Glenn Roush, Chair
 Sen. Don Hargrove
 Rep. Edith Clark
 Rep. Ralph Lenhart

The HJR 8 Subcommittee on Voting Systems consists of the following members:

Rep. Allan Walters, Chair
 Rep. Larry Jent
 Sen. Ken Toole
 Sen. John Bohlinger

Work Plan and Meeting Schedule Approved...The SAIC work plan, which is subject to approval of each subcommittee and which may also be amended by the full SAIC, will include a total of 13 more meetings: 5 meetings of the SJR 5 subcommittee, 4 meetings of the HJR 8 subcommittee, and 4 meetings of the full committee. The SAIC also discussed the possibility of a joint meeting of the SJR 5 and HJR 8 subcommittees with the full SAIC to review mid-term progress.

Next Meeting...The SJR 5 Subcommittee on Veterans' Affairs meeting was changed to Monday, August 6, 2001, and will be conducted in Room 102 of the state Capitol beginning at 8:00 a.m. Major veteran service organizations have been invited to present their legislative agendas and to weigh-in on the issues outlined in SJR 5. These issues primarily involve the VA health care system and the structure, mission, and goals of the Montana Veterans' Affairs Division.

For more information on SAIC activities, please contact Sheri Heffelfinger, Montana Legislative Services Division, at (406) 444-3596 or sheffelfinger@mt.gov.

REVENUE AND TRANSPORTATION

Presiding Officers Elected, Meeting Schedule Adopted...Representative Ron Erickson and Senator Bill Glaser were elected chair and vice chair, respectively, of the 2001-2002 Revenue and Transportation Interim Committee (RTIC) at the Committee's June 18 meeting. In addition to election of presiding officers, RTIC's agenda included a review of the Committee's statutory duties and interim study assignments (for prior coverage see the June issue of **THE INTERIM**). Staff walked members through a proposed work plan. The Committee tentatively adopted the following meeting schedule (planning for one-and-a-half-day meetings):

September 13-14, 2001
 December 3-4, 2001
 February 7-8, 2002
 April 11-12, 2002
 June 6-7, 2002

September 16-17, 2002
November 7, 2002

Agency Reports...Once the organizational tasks had been dispensed with, RTIC heard from both the Department of Transportation (MDT) and the Department of Revenue (DOR). Jim Currie, Deputy Director, MDT, briefed the Committee on the status of the Highway State Special Revenue Account and the ending working capital balance which has been declining sharply since fiscal year 1999. Revenue to the account comes primarily from gasoline and diesel fuel tax and G.V.W. fees. In 1999, the ending working capital balance was just under \$49 million. MDT predicts that, without a mitigation plan in place, the beginning working capital balance for fiscal year 2004 will be in negative figures. Information provided by Mr. Currie also indicates that estimated revenue from gasoline tax, diesel tax, and G.V.W. and Motor Carrier Services fees will fall nearly \$2.5 million short of the amount projected to come in from those sources. MDT will be developing mitigation measures to address the shortfall in the special revenue account and will keep RTIC updated as those measures begin to gel.

Kurt Alme, Director, DOR, discussed several items with the Committee, including an overview of the Department and brief review of DOR responsibilities and processes for members who are new to the Committee.

Implementation of House Bill No. 124 ("The Big Bill") is a significant project for the Department and is of particular interest to the Committee. Director Alme told the Committee that DOR staff had spent the week before RTIC's meeting traveling around the state with Montana Association of Counties (MACo) representatives and staff from other state agencies to explain to local government officials and the interested public the entitlement share and mill levy calculations for HB 124. Director Alme reported that these workshops, attended by about 600 people, proved to be valuable and informative for both the Department and attendees. Local government staff will be responsible for providing the Department with detailed, accurate account information in order for the Department to determine how much to reimburse each county the first fiscal year the bill is in effect. Several glitches have been discovered in HB 124 that Director Alme discussed with the Committee. Some involve coordination of the bill with other legislation and some involve internal problems within the bill. DOR has developed short-term solutions in consultation with MACo, the League of Cities and Towns, Legislative Services Division attorneys, the Department of Justice, and the Governor's budget office. The 2003 Legislature will be asked to enact some "housekeeping" measures to permanently fix these problems. DOR staff and local governments are working feverishly under a limited time frame to process all of the information and have the first entitlement share payment distributed by September 15. RTIC will be kept apprised of the implementation throughout the course of the interim.

Director Alme brought the Committee up to date on the status of DOR's large-scale computer software application project intended to support the Department's numerous business functions. The project, known as POINTS, has been an enormous undertaking and -- while a degree of functionality has been obtained -- continues to be plagued by problems. Director Alme provided members with detailed descriptions of the processes that are working properly, the defects still needing attention, and the Department's priorities and near-term benchmarks. Both House Bill No. 2 and House Joint Resolution No. 2 require DOR to report on POINTS implementation at each RTIC meeting. DOR hopes to report to RTIC in September that most of the high-profile defects have been addressed and that an average of 41 defects a month have been remedied.

During the public comment period, Brian Smith, representing the Montana State Brewers Association, expressed the Association's concerns with proposed DOR rules regarding "suitable premises" for small in-state breweries. The Association asked RTIC to review DOR's rulemaking authority in this area. RTIC requested that the Committee's legal advisor determine the extent of DOR's rulemaking authority with respect to breweries and asked DOR to work with the Association on revisiting these proposed rules. DOR will update the Committee in September.

Internet Access...Meeting notices, agendas, minutes, and study plans and work plans will be posted on the Committee's web site shortly. This interim's web pages are still being constructed, so keep checking the Branch's main page at <http://www.leg.mt.gov>. When "2001/2002 Interim" appears in the left-hand column, RTIC's page should be just a few clicks away. In the meantime, for more information on the Committee's activities, contact Leanne Kurtz, RTIC staff, at (406) 444-3064 or via e-mail at lekurtz@mt.gov.

TRANSITION ADVISORY COMMITTEE

Committee Organizes in June...The Transition Advisory Committee on Electrical Industry Restructuring (Committee) held its organizational meeting June 19 in Helena. Sen. Fred Thomas was elected chair and Rep. Tom Dell was elected vice chair. The Committee consists of 12 legislators (6 from each house) and 12 appointed nonvoting members representing various state agencies, interest groups, and Montana citizens in general. Sen. Thomas introduced the members of the Committee, including the following nonlegislative members:

Stephen Bradley (Montana Indian tribes)
Matt Brainard, Public Service Commission
Art Compton, Department of Environmental Quality

Pat Corcoran, Montana Power Company (public utilities)
 Jerry Driscoll, AFL-CIO (labor)
 Paul Farr, PPL-Montana (electric power marketers)
 Gene Leuwer, Rocky Mountain Development Council (low-income program provider)
 Bob Nelson, Legislative Consumer Counsel
 Russ Ritter (industrial community)
 Kathie Roos (environmental and conservation interests)
 Dave Wheelihan (Montana rural electric cooperatives)

The Committee adopted the following meeting schedule for the rest of the interim:

2001

September 20
 December 14

2002

February 15
 April 19
 June 21
 September 19
 October 11 (tentative)

As is the case with any legislative committee, the schedule is subject to change and those changes will be noted in ***THE INTERIM***.

The Committee covered a wide variety of topics at its last meeting, including the Public Service Commission's assertion of authority to regulate electricity prices, the status of power contracts with large industrial customers, recent trends in electricity prices, and the development of the regional transmission operator. These and other topics will be covered in some detail in the next issue.

LEGISLATIVE AUDIT COMMITTEE

Audit Committee Meets... The Legislative Audit Committee met June 25-26, 2001, in Room 102 in the Capitol. The following reports were presented by Legislative Audit Division (LAD) staff:

FINANCIAL AUDITS

Montana Water Pollution Control and Drinking Water State Revolving Fund Programs (00SP-71)

LAD performed a financial audit of the Montana Water Pollution Control and Drinking Water State Revolving Fund Programs for the fiscal year ended June 30, 2000. This report contains the audited financial statements and accompanying notes for fiscal year 1999-00. LAD issued an unqualified opinion on the financial statements. The opinion means the reader may rely on the financial statement information presented.

FINANCIAL-COMPLIANCE AUDITS

University of Montana (00-10)

This report contains audited financial statements for each of the four campuses of the University of Montana. This report presents six recommendations. These recommendations address issues related to overtime payments which do not comply with University policy and procedures, control over property and equipment, and compliance with various state and federal laws and regulations. LAD issued an unqualified opinion on the financial statements for each campus affiliated with the University of Montana for fiscal years 1998-99 and 1999-00. This means the reader may rely on the presented financial information.

Department of Fish, Wildlife & Parks (00-17)

This audit report is the result of the LAD financial-compliance audit of the Department of Fish, Wildlife and Parks for the two fiscal years ended June 30, 2000. The previous audit report contained 10 recommendations to the Department. This report contains four recommendations relating to cash management, allowable charges to a federal program, Internal Service Fund costs, and compliance with state law related to the Upland Game Bird Habitat Enhancement Program (UGBHEP). LAD issued an unqualified opinion on the financial schedules contained in this report. The reader may rely on the financial information presented in the financial schedules and the supporting data on the state's accounting system.

State Auditor's Office (00-18)

This report contains the results of the LAD financial-compliance audit of the State Auditor's Office for the two fiscal years ended June 30, 2000 and an unqualified opinion on the office's financial schedules. This means the reader may rely on the financial information and supporting data on the primary accounting records. This report contains six recommendations to the office related to timely distribution of federal forest reserve funds, reporting employee payroll information, and recording financial information on the state's accounting records in compliance with state law and policy. The previous audit report contained six recommendations to the Office.

Office of the Commissioner of Political Practices (00-19)

LAD issued an unqualified opinion on the financial schedules contained in the audit report. This means the reader may rely on the presented financial information. The audit report contains no recommendations directed to the Office of the Commissioner of Political Practices. The prior audit contained no recommendations.

Board of Public Education (00-20A)

LAD issued an unqualified opinion, which means the reader can rely on the presented information. This report does not contain any recommendations to the board. The prior audit report contained one recommendation.

Montana School for the Deaf & Blind (00-20B)

LAD issued an unqualified opinion, which means the reader can rely on the presented information. This report does not contain any recommendations to the school. The prior audit report contained one recommendation.

Office of the Governor and Lieutenant Governor (00-21)

This report contains the results of the financial-compliance audit of the Office of the Governor and Lieutenant Governor (Office) for the two fiscal years ended June 30, 2000. LAD issued an unqualified opinion on the office's financial schedules. This means the reader can rely on the presented financial information and the supporting data on the state's accounting system. The audit report contains seven recommendations relating to payout of compensatory time, overtime hours, untimely deposits, patient accounts, compliance with board appointment and program review laws, and compliance with policies and procedures over the use of purchasing cards. The previous audit report contained five recommendations to the Office.

Historical Society, Montana Heritage Preservation and Development Commission, Montana Lewis & Clark Bicentennial Commission (00-22)

This report documents the results of the financial-compliance audit of the Montana Historical Society (Society), including the Montana Heritage Preservation and Development Commission (Heritage Commission), and the Montana Lewis & Clark Bicentennial Commission (Bicentennial Commission), for the two fiscal years ended June 30, 2000. This report contains 11 recommendations and a disclosure issue. The recommendations address areas where the Society, Heritage Commission, and Bicentennial Commission can improve compliance with federal and state laws and regulations. The disclosure issue is related to an artifact barter. The previous audit report contained three recommendations to the Society.

LAD issued an unqualified opinion on the financial schedules contained in this report. This means the reader can rely on the presented financial information and the supporting data on the state's accounting records.

Department of Military Affairs (00-23)

This report documents five issues noted during the financial-compliance audit of the Department of Military Affairs for the two fiscal years ended June 30, 2000. The previous audit report contained three recommendations.

LAD issued a qualified opinion on the financial schedules presented in this report. The department recorded expenditures and revenues associated with construction of an armory in the Special Revenue Fund rather than in a Capital Projects Fund. As a result, capital outlays and federal revenue were understated in the Capital Projects Fund and overstated in the Special Revenue Fund by \$6,220,145 and \$2,824,614 in fiscal years 1998-99 and 1999-00, respectively. Therefore, the reader should use caution when relying on the presented financial information and the supporting

detailed information for construction on the primary accounting records.

Judicial Branch (00-24)

LAD performed a financial-compliance audit of the Montana Judicial Branch (branch) for the two fiscal years ended June 30, 2000. LAD issued an unqualified opinion on the branch's financial schedules which means the reader may rely on the presented financial information and the supporting data on the state's primary accounting records. This audit contains two recommendations to the branch regarding complying with state laws and regulations. The prior audit contained four recommendations.

Department of Public Service Regulation (00-25)

This audit report is the result of the financial-compliance audit of the Department of Public Service Regulation for the two fiscal years ended June 30, 2000. The report contains one recommendation addressing fees commensurate with costs. LAD issued an unqualified opinion on the financial schedules contained in the report. This means the reader may rely on the presented financial information as well as the supporting information on the state's accounting system. The department concurred with both of the recommendations made in the prior audit report.

Office of the Secretary of State (00-27)

This financial-compliance audit report documents the results of the audit of the Secretary of State (office) for the two fiscal years ended June 30, 2000. LAD issued a qualified opinion on the financial schedules of the office for fiscal years 1998-1999 and 1999-2000. This means the reader should use caution when relying on the information presented and the supporting accounting records. This report contains five recommendations for improving office compliance with state laws and regulations. The prior audit report contained four recommendations addressed to the office. The office partially implemented one and did not implement three of the recommendations. The recommendation partially implemented is discussed in recommendation #1 and the recommendations not implemented are discussed in recommendation #2 of this report.

Montana Chiropractic Legal Panel (00-28)

LAD issued an unqualified opinion on the financial schedules which means the reader may rely on the presented financial information and the supporting data recorded on the primary state accounting records. This audit report contains no recommendations. The prior audit report also contained no recommendations.

INFORMATION SYSTEM AUDIT

Montana State University Banner2000 System (01DP-05)

This report provides information regarding the Information System Audit of

application and security controls relating to Montana State University's Banner2000 System. The report contains six recommendations for improving access security and Banner application controls.

PERFORMANCE AUDITS

State Parks Program (00P-13)

At the request of the Legislative Audit Committee, LAD examined program activities of the Parks Division at the Department of Fish, Wildlife, & Parks. The Division is responsible for administering programs related to state parks, recreation sites, and fishing access sites. To gather general information on operations and maintenance, LAD visited 30 state parks and 86 fishing access sites across the state. Generally, auditors found state parks well maintained and in good condition. However, LAD believes steps could be taken to improve maintenance at fishing access sites. The LAD recommended that the Department develop and use standardized site maintenance methodologies for those sites. Auditors also identified several new impacts to the parks system which warrant further policy consideration, including park fee revenues, park resources, ability to respond to local input for changes or developments, and overall long-term program policy changes. Based on these findings, LAD recommended that the Department re-establish the State Parks Futures Committee to address system changes.

Pavement Preservation Projects, Montana Department of Transportation (01P-01)

The responsibility for highway construction, repair, and maintenance is split between resources assigned to separate construction and maintenance functions within the Montana Department of Transportation. Pavement preservation is the term used by the Department to define preventive highway work intended to increase the useful life of road segments and includes: crack filling, chip sealing, and pavement overlays. The Department uses two contracting approaches to complete pavement preservation projects: construction and maintenance. LAD concluded the following:

- Construction and maintenance pavement preservation projects, though similar in appearance, are not the same because of scope of work differences.
- Project assignment decision process is reasonable, because the factors considered allow staff to distinguish between construction and maintenance resources.
- Differences in the scope of work between construction and maintenance pavement preservation projects warrants the use of two contracting approaches.

LAD noted maintenance documentation from district to district reflected a wide variety in the amount and types of quality testing. The audit recommended that the Maintenance Division establish quality control and testing standards.

State-Administered Grant and Loan Programs, Various Agencies (01P-02)

The current organization of the state's grant and loan programs does not necessarily facilitate good communication and coordination. What appears to be missing at the state level is easy access to program information. Various methods to improve access to grant/loan program information include maintaining a comprehensive list of all state grant/loan programs, marketing state grant/loan programs, developing a central web site, developing brochures or newsletters, providing telephone access, advertising a toll-free number, directing parties to training about the grant/loan programs, and reviewing forms for consolidation. House Bill 650 (Ch. 307, L. 2001) provides for a centralized financial assistance center within the Department of Commerce. The bill requires the Center and Department to implement many of the items identified in the report.

LAD auditors also identified a number of grant/loan programs that are no longer active or never received funding to award grants or loans. LAD made recommendations to five agencies to seek legislation to modify or delete specific statutes.

CONTRACT AUDITMontana Medical Legal Panel (01C-01)

Under contract with the Legislative Auditor's Office, Henry Fenton, CPA, conducted the financial-compliance audit of the Medical Legal Panel for the year ended December 31, 2000. The auditor made no recommendations and gave an unqualified opinion on the financial statements presented.

Next Meeting in October...The next Legislative Audit Committee meeting is tentatively scheduled for October 18, 2001.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Members...The Committee members for the 2001-02 interim include Senators Franklin, Grimes, Pease, and O'Neil and Representatives Lawson, Schmidt, Thomas, and Lee. The Legislative Council has assigned SJR 8, the study of privatization of foster care and adoptive services, to this Committee. It is likely the study will be a staff white paper developed as a result of a review of current statutes and practices in Montana, a review of general privatization information, a look at other states' approaches, and interviews with the stakeholders resulting in a descriptive report that will provide potential issues and options for the Committee's consideration.

Sen. Eve Franklin and Sen. Gerald Pease will be the Committee's representatives on the HJR 1 study of mental health issues. This is a continuation of a study that began last interim. The study, under the leadership of the Legislative Finance Committee, includes members from several other legislative committees.

Committee to Meet in August...The Committee is planning its first meeting in August and will cover the interim duties for monitoring the Department of Public Health and Human Services (DPHHS) and for fulfilling the reporting requirements contained in HB 2. In addition, the Committee will discuss monitoring the Mental Health Oversight Advisory Council, the Interagency Coordinating Council on Prevention, an administrative rule on personal care facilities, the multi-agency children's initiative, the resolution regarding litter and alcohol use, and a feasibility report on a chronic disease registry.

Susan Byorth Fox is the lead research analyst for the Committee and David Niss is the staff attorney. If you wish to be placed on the interested persons list, please contact Susan Byorth Fox at the Legislative Services Division at (406) 444-3597 or at sfox@mt.gov.

DISTRICTING AND APPORTIONMENT COMMISSION

The Pace Quickens...The Districting and Apportionment Commission has completed its organizational phase and will soon begin the process of legislative redistricting based on the 2000 Census data.

Staff is conducting preliminary information-gathering visits around the state to meet with the county clerk and recorders, central committee representatives, legislators, and others who are interested in receiving and sharing information about potentially new legislative districts. Based on that information, staff will prepare options for the Commission to consider and to be presented at public hearings.

Schedule for Public Meetings...The first public hearings for north-central and central Montana are tentatively scheduled for September 2001, and for eastern Montana districts, tentatively scheduled for November 2001. Public hearings for south-central Montana are tentatively scheduled for January 2002, for southwestern Montana for March 2002, and for western Montana for May 2002.

For more information or to be placed on the Commission's interested persons list, please contact Susan Byorth Fox at the Legislative Services Division at (406) 444-3597 or at sfox@mt.gov.

THE BACK PAGE

REALITY TV: THE REAL THING

By Stephen B. Maly, Research Analyst
Legislative Services Division

THE STAGE IS SET

The 1999-2001 Legislative Council made educating the public about the legislative process its #1 goal. The feasibility study of gavel-to-gavel broadcasting pursuant to HJR 18 and carried out by the Council's Public Information Subcommittee in the last interim was the catalyst for HB 144 (Ch. 557, L. 2001) and gave rise to an experiment (TVX) with closed circuit cable-casting and limited Intranet streaming of House and Senate Floor sessions during the 2001 session. Notwithstanding numerous technical difficulties early on, the combination of audio streaming and TV coverage proved to be an effective and popular "window" through which state government personnel, lobbyists, and visitors to the Capitol could monitor floor action. In approving HB 144 by a bipartisan and overwhelming majority [78-22 in House; 41-7 in Senate], the Legislature signaled its serious intent to expand the depth and reach of televised proceedings.

AN EXPERIMENT GONE RIGHT

Picture this: You're on the floor of the Montana House of Representatives. More precisely, your seat is in the front row, near the "well" of the House just below the rostrum, and figuratively smack dab in the middle of everything. It's the 87th Legislative Day. Hours ago, you were amazed to see how many bills the body had to take up on second reading, and you're still amazed. Your gray sheet is a withered, coffee-stained jumble of crossed-out, underscored, and rearranged bill numbers, checkmarks, jots in the margin, and illegible squiggles. Your desk is littered with fiscal notes, post-it notes, pretzels, and jelly beans. It's been a long time since lunch, and longer still since you've seen the light of day.

One of your seat-mates is waxing eloquent. (You could say "waxing eloquent, again" but that would be catty. Besides, the guy is funny.) One of the members across the aisle, an attorney, is clearly not amused, and looks ready to pounce. Meanwhile, the lady wielding the gavel is running out of patience, and after allowing another few concatenations of wit she says: "Let's get the show on the road, folks."

That breaks the verbal logjam; it's time to move on. But whoa! What's happening? After so-and-so is asked what his pleasure is (with respect to Senate Bill such and

such), you could swear you're hearing the amplified bump of a bass guitar. Up in the visitors' gallery, you see people in purple and gold robes start to sway back and forth, keeping the beat, and before long their swelling voices just take over everything as the member down below closes his spiel with arms raised up and a great beaming smile upon his face. The sonorous crowd turns out to be a choir--nay, SEVERAL choirs--bussed in from high schools from Sweetgrass to Ekalaka, and they're all singing the same secular hymn that YOU (being of a certain age) know and love so well: "Let the Sunshine in, let the sunshine in, the su-uhn shine in..." Oh yeah, man-----this is the bill to put hair on the thin little chest of TVX, that experiment gone right in gavel-to-gavel broadcasting of the Legislature.

Okay, this isn't happening, and it probably won't happen in the 2003 session either, at least not with this sort of pepped up pomp and circumstance. Still, the passage of HB 144 in the 57th Legislature augurs the advent of televised proceedings in the House and Senate that will indeed cast a broadening light upon the legislative process, and that in turn will serve to counteract the festering disrespect and disaffection citizens have for their elected representatives in all three branches of state government. Happily, these great expectations are not just the mere imaginings of an optimistic enthusiast for unfiltered and unedited coverage of state government proceedings. No way! These are justifiable conclusions drawn from a lot of work done elsewhere in the country. Here's just a sample of the literature I'm preaching from.

A LESSON FROM THE PULPIT

A report in support of the New York State Legislature's proposed Empire State Network systematically addresses many of the perceived problems associated with gavel-to-gavel TV coverage. For example, many incumbents object that opponents can use gavel-to-gavel tapes to run ads against lawmakers, or manipulate tapes to depict lawmakers' comments for something they are not. "The reality," according to the authors, "is that there has not been a single report of a state lawmaker facing political ads featuring excerpts from gavel-to-gavel TV."¹

One of the first concerns legislators voice when this kind of broadcasting comes up is the temptation that their colleagues will have to "grandstand". Paradoxically, worries about grandstanding and excess debate exist alongside contradictory concerns that TV will chill debate by penalizing poor debaters or sending debates

¹*The Empire State Network: Gavel-to-Gavel Coverage for the New York State Legislature*, prepared by David Evan Markus and Rebecca Medina, candidates for Master in Public Policy, John F. Kennedy School of Government, Harvard University, April 3, 2001.

behind closed doors. In reality, according to the New York analysis, "neither assertion proves true." A related objection to TV is that it will bring about prolonged debates and session times. "In practice, no study has ever linked TV to longer debates or legislative sessions." Moreover, the research shows, no study has ever linked any increase in partisanship or incivility to legislative television.

These helpful observations were gleaned from materials shared at a June 11 meeting in Chicago of an informal group of individuals dedicated to this kind of unbiased state government programming. They call themselves the State Public Affairs Television group, or (with a bit of a twinkle in their collective eye) SPAT, and they represent 18 states that currently engage in gavel-to-gavel coverage of their respective legislatures and more.² Several SPATsonites are C-Span alumni who have brought their training and expertise in that national niche to the states of California, Pennsylvania, and Indiana, while most of the rest are at least part-time C-Span junkies, with a certain bent for making the policymaking process nearly as compelling as the substance of policy itself.

We are also unabashed copycats, eager to take someone else's innovative programming idea or technological wizardry and apply it in our respective home environments. It's all, after all, in the public domain, for a public purpose. The Pennsylvania Cable Network (PCN), for example, a successful C-Span clone administered by one of Brian Lamb's flock, has several surprisingly popular shows that have nothing much to do with legislation but everything to do with the Keystone state's overall sense of its cultural roots as well as the causes of its modern prosperity. PCN carries the Pennsylvania State Farm Show, high school sports championships, and occasional tours of modern manufacturing facilities in addition to "you are there" wanderings through important historical places like the Gettysburg Battlefield Park.

I hear all this and see a short video sample of it, too, at the Chicago meeting. We were all invited to bring a little clip for show and tell, and I think about a similar take on the Little Bighorn Battlefield and the Montana State Fair and the Class C basketball tournament, and about televised wanderings through such commercial establishments as the aluminum smelter in Columbia Falls, a paper mill in Missoula, the power generation cluster at Colstrip, a silicon chip facility in Butte, water bottling facilities in Phillipsburg and Lewistown, a pasta plant in Great Falls, and little shops and studios where individual craftspeople fashion wooden boats, musical instruments,

²With the passage of HB 144, Montana becomes the 19th state to embrace the madness, and successful implementation will result in programming being delivered to statewide audiences through television sets and through home and office computers over the Internet.

fishing gear, stuffed game animals, huckleberry jam. You get the picture, and can no doubt think of other places of production that would make for fascinating virtual tours.

This is all rich cake and frosting, of course, but such desserts may prove essential to the sustainability of public affairs broadcasting. No two state government TV programs or networks are alike, although they are all similar in some respects. For example, gavel-to-gavel coverage of floor debates and committee hearings is the norm, and this form of unedited, unfiltered coverage of key legislative activities constitutes the main course of most state programs. Daily and weekly summary programs as well as news magazine-type shows with face-to-face legislator interviews are also featured in a number of states.³ In addition to legislative proceedings, a number of states have or are in the process of acquiring access to their respective supreme courts in order to broadcast oral arguments. More generally, state public affairs programming includes speeches and press conferences by governors, legislative leaders, and prominent executive branch department heads, as well as coverage of important field hearings held in communities other than the capital city.

The SPAT society gathering is somewhat akin to a rendezvous of wagon train ramrods, ⁴ all headed in the same general direction, but each having a separate path and encountering unique obstacles along the way. They share a common purpose, and many common values, so that the core understandings below would fit a lot of other states as well as they do Montana.

Why televise the legislature?

Here's the gospel truth, according to all reasonable souls residing under the Big Sky:

< Montana citizens have an inherent right to know what their elected officials are saying and doing on their behalf. Television offers a means of

³Washington state TVW's is the leading pioneer in slightly edited shows, like the *Legislative Week in Review*, *Inside Olympia*, and a new, bi-monthly program called *Author's Hour* that TVW executive Denny Heck admits was "shamelessly stolen from C-Span and [PCN director] Brian Lockman." Such happy thievery is endemic in the world of SPAT, and I can't wait to order up a carbon copy of Michigan Government Television's portable production unit, a sort of "suitcase studio" that can be built for about \$100,000.

⁴Nary a one bears any resemblance whatsoever to a young Clint Eastwood. Denny Heck wears suspenders, and most everybody else is prematurely gray.

increasing citizen participation in a process that can affect their vital interests; it can also help bring about a better-informed electorate.

- < Gavel-to-gavel coverage, because it provides a window on legislative proceedings without the distortions of the commercial media, guarantees a service without "sound bites", "political spin", or the exploitation of scandalous, sensational, or merely controversial goings on taken out of context.
- < Broadcasting offers a means of transcending distance from Helena, detachment from the political process, and disaffection for the Legislature as well as other components of state government. Television will help boost the legitimacy of the Legislature by making it more accountable, more transparent, and more accessible.

Reaching out to citizens via TV and Internet broadcasting can offset various trends in governance such as those listed below that have the effect of further alienating the voting public and making the legislative process more fractious and less efficient.

- ' Term limits, and the associated loss of institutional memory.
- ' A shortage of seasoned legislative leadership familiar with processes and procedures.
- ' Public cynicism toward government, especially the state Legislature.
- ' A relative decline in the amount of time and space the commercial media will devote to state and local politics.

Unfiltered television coverage can propagate and underscore these themes better than any other available medium, because citizens are able to listen to and watch their elected officials doing their job. It can work just as effectively for the executive and judicial branches as for the legislature.

Television reveals things about the political process in ways that are both unexpected and refreshing. For example, viewers who have the stick-to-itiveness to follow an entire season of legislative drama will be witness to the paradoxes of partisanship. The deep, highly-charged, and at times bitter divisions that occur on the House and Senate floor over issues large and small are counterbalanced by wonderful moments of serendipitous humor and, as the session nears its inevitable denouement, by tearful manifestations of comradery that transcend party, gender, age, and ideology. The buildup to *sine die* is something to behold, and the genuine feelings of our

elected representatives are palpable to a viewing audience whether they are situated down the hall or down a flight, across the street, or hundreds of miles distant from the House and Senate chambers. Hard-boiled sourpusses and other political animals may not find this sentimental aspect of the legislative process all that endearing, or even the slightest bit useful, in a policy sense, but regular people will see more clearly that politicians are just people, being themselves in an extraordinary setting, and trying hard for 90 days in a row to know what's the right thing to do and then do it, for the benefit of their constituents and the state as a whole.

Most everyone is educated to know that the fashioning of laws is a deliberative process. Somewhere in the civics curriculum we are served up the image that making laws is a lot like making sausage. Although the meat grinder *motif* may always endure, however distasteful it seems at times, few could say that it doesn't smack of the grisly truth. But there are other, more appealing analogies that are no less accurate. Consider, for example, the making of jazz music: Syncopated rhythms; complex chords; improvisation emerging out of surprisingly strict rules; solo acts. Yeah, daddy, yeah, this is good stuff, and it's the kind of thing that makes you want to tap your feet, snap your fingers, swing some votes, and, when the day is done, belt some booze and slap some bratwurst on the barbie.

This is the moment for a falsely self-deprecating little segue like, "But I digress...". But this is no digression. This is the real thing. This is it!

BACK PAGE SIDEBAR

GETTING REAL: THE BUSINESS SIDE OF TVMT (OR WHATEVER WE WANT TO CALL IT)

By Stephen B. Maly, Research Analyst
Legislative Services Division

House Bill No. 144 carries an appropriation of \$1.3 million. Roughly \$1 million is destined for infrastructure improvements, like remotely controlled cameras in the main hearing rooms. The remainder is to fund a contract for programming services for the biennium.¹ This isn't real money--yet. The bill included a \$60,000 loan against the

¹House Bill No 144 mandates that the Legislative Services Division: develop and issue an RFP for the provision of gavel-to-gavel production services; establish selection criteria, evaluate proposals, and execute a contract with a nonprofit entity to produce such services; work with executive and judicial branch officials toward complementary, unedited coverage of their respective activities; and in league with the chosen contractor, develop and implement a plan to provide the maximum

general fund, the backing for which will be deposited sometime before January of 2003, as it comes from lobbyists' registration fees, which were bumped up from \$50 to \$150.

Looking at other states, the capital costs of outfitting capitol buildings with robotic cameras in sufficient quantity to capture hearings as well as floor sessions ranges between one and two million dollars, with another quarter to half a million to provide the computer and telecommunications capacity for video streaming over the Internet. Operational costs (including systems maintenance) range from \$300,000 to \$800,000. In Illinois, the legislature spent \$440,000 on a 2-year feasibility study alone. Connecticut is in its 4th year of operations, with two to go before enabling legislation sunsets; it allocated \$1.6 million in the first year, \$1.8 million the second, and \$2 million for the subsequent 2 years.

In Montana, the real costs of sprouting a network out of a test tube will depend very much on the mode(s) of broadcast and delivery to audiences across the state. Commercial rates for transmission and distribution (known as "carriage" in the trade) charges can be very expensive, especially when satellite uplinks and downlinks are involved. However, C-Span, Michigan Government TV, the Pennsylvania Cable Network, and the California Channel are examples of what the cable TV industry has been willing to fund. AT&T recently awarded Washington state's TVW with a cable channel that has the same dial location across most of the state. This is worth a hefty sum indeed, and makes for wonderfully practical in-kind support.

The Legislative Council invested \$40,000 of its budget in the last biennium to fund TVX. The TVX production crew has learned how to stretch its technotronic laces, and is still learning how to cut corners without compromising self-imposed standards of quality.²

attainable distribution of broadcasts to the citizens of Montana.

²The TVX Team is dedicated to the **reliable, consistent, and cost-efficient** delivery of gavel-to-gavel television and Internet coverage of House and Senate proceedings, in compliance with the rules and policies set forth by the Legislative Council and in subsequent acts of the Legislature. The TVX Team **measures success by the quality and continuity of its broadcast service**, as well as through positive feedback from the members of the Legislature and its staff, the lobbyist community, the professional media, and other audience groups in the state Capitol complex. The TVX Team strives for **creative excellence in public affairs programming** that is approved by the Legislative Council. The TVX Team **aspires to become the core of an ongoing public affairs programming service** that will deliver unbiased coverage of the legislative, executive, and judicial branches of government in Montana to a statewide audience. The TVX Team works together in a congenial fashion to ensure **mutual**

HB 144 anticipates a million dollar plus outcome with a \$60,000 general fund loan. This small pot of "seed money" must be used judiciously to leverage larger amounts and to ensure that the 2003 session will be covered. Getting from the TVX platform to TVMT will take a quantum leap. To raise funds in support of the governance, technical infrastructure, and general operations of the service will require good timing, a good pitch, and some clever, innovative ideas. Staff³ is working on a fund raising strategy aimed at bringing state, federal, business, corporate, philanthropic and, not least, consumer dollars into a genuine public-private partnership to launch TVMT, a public affairs broadcasting service with statewide distribution.

respect, mutual assistance, and a shared commitment to accomplishing our mission.

³That would be me. Staff welcomes advice, counsel, and other sorts of contributions to the cause.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

JULY

No legislative committee meetings scheduled

AUGUST

August 1, Education and Local Government Committee, Capitol Building, Room 102, 9:30 a.m.

August 2, State-Tribal Relations Committee, Capitol Building, Room 137, 9:30 a.m.

August 6, SJR 5 Subcommittee on Veterans' Affairs, Capitol Building, Room 102, 8:00 a.m.